

2006 NOV 21 AM 8:43

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

FILED
EPA REGION VIII
RECORDING CLERK

In the Matter of:

Lake County Charlo Sewer District,

Respondent.

Docket No. CWA-08-2005-0040

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

DATE

Nov 16, 2006

Richard G. McAllister
Regional Judicial Officer

Richard G. McAllister

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FILED
EPA-REGION VIII
HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

In the Matter of:)
)
)

Lake County Charlo Sewer District,)

Docket No. CWA-08-2005-0040

Respondent.)
_____)

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Lake County Charlo Sewer District (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. Concurrent with filing this Consent Agreement, Complainant is issuing an Administrative Penalty Complaint (Complaint) alleging that the Respondent violated an Administrative Order that EPA had previously issued under section 309(g) of the Clean Water Act (the Act), 33 U.S.C. 1319(g). The Complaint proposes that the Respondent pay an administrative civil penalty for its violations.
2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint. Respondent does not admit to any violations of the Act or to any wrongdoing.
3. Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or in this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change in Respondent's ownership or corporate status, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to pay a civil penalty in the amount of three thousand five hundred dollars (\$3,500) in accordance with this paragraph:

a. Payment shall be in either a single payment of \$3,500 made no later than thirty calendar days from the date of the Final Order, or in three installments, with

- \$1,166.67 due within 30 days of the Final Order;
- \$1,201.78 due within one year after the deadline for the first payment (i.e., within 395 days of the Final Order); and
- \$1,201.78 due within one year after the deadline for the second payment (i.e., within 1,030 days of the Final Order).

b. If any due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM EST are processed on the same day; those received after 11:00 AM EST are processed on the next business day.

- c. Each payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," as follows:

If sent by regular U.S. mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

If sent by any overnight commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

If sent by wire transfer:

Any wire transfer must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68011008

A copy of the check shall be sent simultaneously to:

Rosemary Rowe
Enforcement Officer
U.S. EPA Region 8 Montana Office
10 West 15th Street, Suite 3200
Helena, MT 59626

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

- d. In the event any payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest will have accrued).
- e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final order, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., by the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

7. Any failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.

8. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

9. The undersigned signatory for Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement.

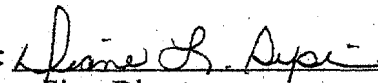
10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

11. Each party shall bear its own costs and attorney fees in connection with this matter.

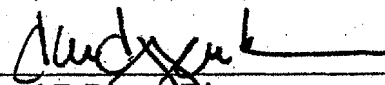
12. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant

Date: 11-07-06

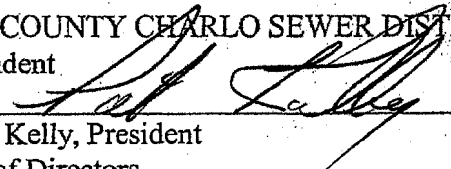
By: 
Diane Sipe, Director
Water Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202

Date: 11/6/06

By: 
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202

LAKE COUNTY CHARLO SEWER DISTRICT,
Respondent

Date: 10-30-06

By: 
Patrick Kelly, President
Board of Directors

Certificate of Service

The undersigned certifies that the original of the attached Final Order in the matter of **Lake County Charlo Sewer District, Docket No. CWA-08-2005-0040**, was filed with the Regional Hearing Clerk on the date indicated below.

Further, the undersigned certifies that on the date indicated below, a true and correct copy of this document was hand delivered to:

Margaret J. (Peggy) Livingston
Enforcement Attorney
EPA Region 8, 8ENF-L
999 18th St., Suite 300
Denver, Colorado 80202


and that a true and correct copy of this document was filed with:

Honorable Richard G. McAllister
Regional Judicial Officer
U.S. Environmental Protection Agency Region 8
999 18th Street Suite 300 (8RC)
Denver, Colorado 80202-2466

and that a true and correct copy of this document was sent by certified mail, return receipt requested, to:

M. Richard Gebhardt
Attorney
6296 Kruse Lane
Ronan, Montana 59864

Date: Nov. 21, 2006.


Tina Artemis
Regional Hearing Clerk